

Subpart 246.7—Warranties**246.701 Definitions as used in this subpart.**

Acceptance as used in this subpart and in the warranty clauses at FAR 52.246-17, Warranty of Supplies of a Noncomplex Nature; FAR 52.246-18, Warranty of Supplies of a Complex Nature; FAR 52.246-19, Warranty of Systems and Equipment Under Performance Specifications or Design Criteria; and FAR 52.246-20, Warranty of Services, includes the execution of an official document (e.g., DD Form 250, Material Inspection and Receiving Report) by an authorized representative of the Government.

Defect means any condition or characteristic in any supply or service furnished by the contractor under the contract that is not in compliance with the requirements of the contract.

Duration, enterprise, enterprise identifier, fixed expiration, issuing agency, item type, starting event, serialized item, unique item identifier, usage, warranty administrator, warranty guarantor, warranty repair source, and warranty tracking are defined in the clause at 252.246-7006, Warranty Tracking of Serialized Items.

[76 FR 33168, June 8, 2011]

246.704 Authority for use of warranties.

(1) The chief of the contracting office must approve use of a warranty, except in acquisitions for—

(i) Commercial items (*see* FAR 46.709);

(ii) Technical data, unless the warranty provides for extended liability (*see* 246.708);

(iii) Supplies and services in fixed-price type contracts containing quality assurance provisions that reference higher-level contract quality requirements (*see* 246.202-4); or

(iv) Supplies and services in construction contracts when using the warranties that are contained in Federal, military, or construction guide specifications.

(2) The chief of the contracting office shall approve the use of a warranty

only when the benefits are expected to outweigh the cost.

[71 FR 27647, May 12, 2006]

246.705 Limitations.

(a) In addition to the exceptions provided in FAR 46.705(a), warranties in the clause at 252.246-7001, Warranty of Data, may be used in cost-reimbursement contracts.

[71 FR 27647, May 12, 2006]

246.706 Warranty terms and conditions.

(b)(5) *Markings*. For non-commercial items, use MIL-STD-129, Marking for Shipments and Storage, and MIL-STD-130, Identification Marking of U.S. Military Property, when marking warranty items.

[71 FR 27647, May 12, 2006]

246.708 Warranties of data.

Obtain warranties on technical data when practicable and cost effective. Consider the factors in FAR 46.703 in deciding whether to obtain warranties of technical data. Consider the following in deciding whether to use extended liability provisions—

(1) The likelihood that correction or replacement of the nonconforming data, or a price adjustment, will not give adequate protection to the Government; and

(2) The effectiveness of the additional remedy as a deterrent against furnishing nonconforming data.

246.710 Solicitation provision and contract clauses.

(1) Use a clause substantially the same as the clause at 252.246-7001, Warranty of Data, in solicitations and contracts that include the clause at 252.227-7013, Rights in Technical Data and Computer Software, when there is a need for greater protection or period of liability than provided by the inspection and warranty clauses prescribed in FAR Part 46.

(2) Use the clause at 252.246-7001, Warranty of Data, with its Alternate I when extended liability is desired and a fixed price incentive contract is contemplated.

(3) Use the clause at 252.246-7001, Warranty of Data, with its Alternate II